

THE HIV & AIDS PREVENTION, AND TREATMENT ACT, 2007

(No)

September , 2007

An Act to prevent the HIV from becoming established amongst general population, particularly in most-at-risk and vulnerable populations, and to provide for the care, support and treatment of persons living with HIV and with AIDS.

WHEREAS, there is a need to prevent the HIV from becoming established general population, particularly in vulnerable populations; to provide for the care, support and treatment of persons living with HIV and AIDS; to protect vulnerable populations against stigma and discrimination on the basis of their HIV status; and to provide for increasing and scaling up prevention, care, support and treatment programs.

AND WHEREAS, discrimination on the basis of HIV status creates and sustains conditions leading to societal vulnerability for HIV infection.

AND WHEREAS, there is a need to reduce risk of HIV infection among vulnerable populations, including preventing its transmission into the general population;

AND WHEREAS, it is expedient to consolidate, amend, and enact a law to give effect to all the national and international endeavors in this respect; and to amend laws for the purposes hereafter appearing;

It is hereby enacted as follows:

CHAPTER I

PRELIMINARY

1. Short Title, Extent and Commencement. (1). This Act may be called the HIV & AIDS Prevention, and Treatment Act, 2006.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context,

(a) “AIDS” means Acquired Immune Deficiency Syndrome, and is a condition characterized by a combination of signs and symptoms, caused by HIV, which attacks and weakens the body's immune system making the HIV-positive

person susceptible to other life threatening conditions, or as may be defined by the National AIDS Commission from time to time;

- (b) "blood bank" includes private, Government or Armed Forces blood banks maintained for the purpose of receiving, preserving, storing, analyzing and processing blood and blood products;
- (c) "Children" or "Child" means a person up to the age of 18 years;
- (d) "Commission" or "National AIDS Commission" means the National AIDS Commission constituted under section 4;
- (e) "discrimination" includes any act or omission including a policy, law, rule, practice, custom, tradition, usage, condition or situation which directly or indirectly, expressly or by effect, immediately or over a period of time imposes burdens, obligations, liabilities, disabilities or disadvantages on, or denies or withholds benefits, opportunities or advantages, from, or compels or forces the adoption of a particular course of action by any person or category of persons, based solely on a person's HIV status, actual or perceived;
- (f) "health care facility" or "health care facilities" means any basic health unit, rural health centre, any hospital including a Tehsil, District, or a teaching hospital, and any private medical facility, supervised by a medical practitioner;
- (g) "health workers" means any person providing services as a medical practitioner, homeopath practitioner, nurse, nutritionist, midwife, traditional birth attendant, pharmacist or dispensing chemist, hospital administrator or employee, whether professional or not, paid or not,

and any other person providing such services as may be notified by the Federal Government in the official Gazette;

- (h) “HIV” means ‘human immunodeficiency virus’, the virus that causes AIDS in humans, by infecting the cells of .the human immune system and destroying their function, resulting in the progressive depletion of the immune system;
- (i) "HIV-positive" means the presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested;
- (j) “HIV screening” means a systematic application of a medical procedure or answering questions or be otherwise being interviewed to determine the presence or absence of HIV or HIV antibodies to a defined population for a broad public health purpose;
- (k) “HIV test” means a medical procedure used to determine the presence or absence of HIV or HIV antibodies in an individual, administered typically for diagnostic or clinical purposes;
- (l) "HIV transmission" refers to the transfer of HIV from the infected person to an uninfected individual, most commonly, but not limited to, through sexual intercourse, blood transfusion, sharing of intravenous needles and during pregnancy;
- (m) “HIV and AIDS prevention harm reduction services” means all quality assured, trained measures designed to mitigate the risk of HIV infection and other health, social, economic consequences of illicit drug taking and other behaviors, including:
 - (i) distribution of sterile needles, syringes and other equipment;

- (ii) taking-in of used needles and syringes, and other equipment;
 - (iii) condom promotion and distribution, with education and information on their use;
 - (iv) information and promotion of VCT (Voluntary Counseling & Testing), and referrals for treatment of opportunistic infections and for ART (Anti-Retroviral Therapy);
 - (v) establishment and operation of drug treatment facilities;
 - (vi) establishment of drug substitution therapy programs;
 - (vii) referral for drug treatment and rehabilitation referral, including for drug substitution therapies and other treatments;
 - (viii) referral for STI (sexually transmitted infections) education, and referral for STI treatment; and
 - (ix) establishment of 'drop in' and mobile outreach centers for the Most at Risk Populations
- (n) "informed consent" means voluntary and continuing permission of the person, whether written or verbal, or if the person is a minor, his guardian, for assessment or to receive a particular treatment based on an adequate knowledge of the purpose, nature, likely effects, and risks of that treatment, including the likelihood of its success and any alternatives to it and the cost of treatment;
- (n) "involuntary HIV Testing" refers to HIV testing imposed upon a person attended or characterized by the lack of consent, use of physical force, intimidation or any form of compulsion;
- (o) "Most at Risk Populations" means populations at disproportionately high risk of HIV infection, whose members and their families often experience a lack of human rights protection, such as discrimination and/ or are otherwise marginalized by their legal or other status, which consequently may disempower members of these populations to avoid

seeking HIV tests and other HIV infection prevention measures and to cope with HIV/ AIDS, if affected by it;

Explanation: Such populations include but are not limited to, injecting drug users, female sex workers, men who have sex with men, women vulnerable and at risk for HIV infection, children, adolescents, migrants, refugees, and internally displaced persons, people with disabilities, long distance truckers, and prisoners.

- (p) “people living with HIV/AIDS” means people living with asymptomatic HIV infection, people living with AIDS and those merely suspected of HIV or AIDS;
- (q) "person" means one or more individuals, partnerships, associations, unincorporated organizations, companies, cooperatives, trustees, agents or any group of persons;
- (r) "prescribed" means prescribed by rules;
- (s) "Provincial AIDS Commissions" means the Provincial AIDS Commissions constituted under section 4;
- (t) "rules" means rules made under this Act;
- (u) "post-test counseling" refers to the process of providing to the person who took the HIV test, at the time that the test result is released, risk-reduction information, partner notification and emotional support counseling, referral to relevant NGOs and establishments dealing with the issue of HIV, and other social and health safety net mechanisms;

- (v) “pre-test counseling” means the process of providing individual information on the biomedical aspects of HIV/ AIDS and emotional support to any psychological implications of undergoing HIV testing and the test result itself before the person takes the test;
- (w) “ safe blood” means human blood or blood product which is healthy and free from HIV, Hepatitis B and C viruses or other viruses or infective agents, like malarial parasites and treponema pallidum (syphilis) and/ or such other viruses or infective agents as the Federal Government may, by notification in the official Gazette, specify;
- (x) "universal precautions" means infection control measures that prevent exposure to or reduce the risk of transmission of pathogenic agents including HIV and includes education, training, personal protective equipment such as gloves, gowns and masks, hand washing, and employing safe work practices; and
- (y) "voluntary HIV testing" refers to HIV testing done on an individual who, after having undergone pre-test counseling, willingly submits himself to such test.

CHAPTER II

ESTABLISHMENT OF NATIONAL AND PROVINCIAL AIDS COMMISSIONS

3. Implementation and Monitoring. (1) The Federal Government shall be responsible for the implementation and enforcement of this Act.

(2) Subject to the provisions of this Act, the Federal Government shall, when necessary, direct the Provincial Governments to ensure the implementation and enforcement of this Act.

(3) For the purpose of implementation and enforcement of this Act, the Federal Government shall have the following powers and functions:

- a) To promulgate, and/or to direct the Provincial Governments to promulgate, such rules as are necessary or proper for the implementation of this Act and the accomplishment of its purposes and objectives;
- b) To call for consultations with the Provincial Governments, and other interested persons to ensure implementation and compliance with the provisions of this Act and the rules; and
- c) To exercise such other powers and functions that may be necessary for, incidental or ancillary to, the attainment of any purposes and objectives of this Act, or the rules.

(4) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers and functions under this Act may, subject to such limitations, restrictions or conditions, if any, it may from time to time impose, be exercised or performed by the Provincial Governments, the National AIDS Commission, or the Provincial AIDS Commissions, as the case may be.

(5) The Federal Government may give such directions to a Provincial Government as may appear to the Federal Government to be necessary for carrying into effect in the Province any of the provisions of this Act, or of any rule, or order or direction made thereunder, or for the achievement of uniformity in respect of any matter thereto in different parts of Pakistan.

4. National AIDS Commissions & Provincial AIDS Commissions. (1) The Federal Government shall, by notification in the official Gazette, establish a National AIDS Commission for the prevention, control, care, support and treatment of HIV and AIDS in the whole country.

(2) The Provincial Governments, in consultation with the Commission, shall constitute, by notification in the official Gazette, a Provincial AIDS Commission for each Province for the prevention, control, care, support and treatment of HIV and AIDS in their respective Provinces.

(3) The National AIDS Commission shall consist of technical experts in the field of prevention, control, care, support and treatment of HIV and AIDS, including but not limited to,

- (a) The Federal Minister for Health, Government of Pakistan;
- (b) The Federal Minister of Education, Government of Pakistan;
- (c) The Federal Minister for Defense, Government of Pakistan;
- (d) The Federal Minister for Interior, Government of Pakistan;
- (e) The Federal Minister of Information, Government of Pakistan;
- (f) The Federal Minister for Population, Government of Pakistan;
- (g) The Federal Minister for Social Welfare, Government of Pakistan;
- (h) The Federal Minister for Economic Affairs, Government of Pakistan
- (i) The Secretary, Ministry of Health, Government of Pakistan;
- (j) The Secretary, Ministry of Education, Government of Pakistan;
- (k) The Secretary, Ministry of Defense, Government of Pakistan;
- (l) The Secretary, Ministry of Interior, Government of Pakistan;
- (m) The Secretary, Ministry of Information, Government of Pakistan;
- (n) The Secretary, Ministry of Population, Government of Pakistan;
- (o) The Secretary, Ministry of Social Welfare, Government of Pakistan;
- (p) The Director General, Ministry of Health, Government of Pakistan
- (q) Two persons representing NGOs (Non-Governmental Organizations) working in the field of HIV and AIDS;
- (r) One person from each Province to be nominated by each Provincial Government, in consultation with the concerned Provincial AIDS Commission;
- (s) Two medical practitioners nominated by the Pakistan Medical Association (PMA);
- (t) One nurse nominated by the Pakistan Nursing Council (PNC);

- (u) Two people living with HIV/ AIDS who shall be nominated by organizations representing people living with HIV/AIDS;
- (v) One representative each from the National Assembly and Senate respectively; and
- (w) Three representatives of Most at Risk Populations one of whom shall always be a female.

(4) The Provincial Governments shall decide on their own the composition of the respective Provincial AIDS Commissions. The membership of such Commissions may be based on the pattern listed in subsection (3) of section 4 above.

(5) The Commission, and the Provincial AIDS Commissions, as the case may be, shall be composed of as many members as the Federal Government and the Provincial Governments respectively may determine from time to time.

(6) The members of the Commission, and the Provincial AIDS Commissions, as the case may be, shall be nominated by the Federal Government, and the Provincial Governments respectively, who shall hold office for a term of two years, except for ex-officio members, from the date of their nomination or until their respective successor is nominated whichever is longer. The members may be re-appointed by the Government concerned.

(7) Any member may, at any time, resign his office by writing to the Federal Government, or the Provincial Government, as the case may be; or in the case of an ex officio member, shall vacate his office if the Federal Government or the Provincial Government concerned, as the case may be, so directs. A vacancy shall be filled in the same manner as the original appointment for the balance of the unexpired term.

(8) No act done by the Commission, or the Provincial AIDS Commission, shall be invalid on the ground of the existence of any vacancy in the Commission, or the Provincial AIDS Commission, as the case may be.

(9) The Commission, and the Provincial AIDS Commission, as the case may be, may invite an expert to take part in its meetings as an observer; and may constitute committees, or hire the services of experts, consultants, or employees, for the purposes of detailed study of any specific matter before it.

(10) The members of the Commission, and the Provincial AIDS Commissions, as the case may be, shall exercise such powers as may be prescribed.

5. Administration of AIDS Commissions. (1) The Commission shall be located for administrative purposes within the Health Division of the Government of Pakistan in Islamabad, and the Provincial AIDS Commissions shall be located within the Health Departments of their respective Provincial Governments in the Provincial capitals respectively.

(2) The Chairman Senate shall be the Chairman of the Commission while the Federal Government shall appoint the secretary of the Commission and such other officers as it deems necessary to carry out the purposes of this Act; and shall also provide the Commission with such staff as it, or the Commission, may consider necessary.

(3) The Commission shall meet as often as considered necessary by the chairman, or the Federal Government, but no less than every six months at such time and place as may be intimated by its secretary. A meeting of the Commission can also be requisitioned by any five members of the Commission by a notice in writing addressed to the Secretary who shall call such a requested meeting within 21 days of the receipt of such a notice.

(4) The secretary of the Commission shall call meetings at the direction of the chairman; maintain minutes of the meetings; certify decisions of the Commission and shall perform such other duties as may be directed by the Commission.

(5) Majority of the members of the Commission shall constitute a quorum for a meeting.

(6) The Commission may make such administrative regulations as are required for its proper conduct and functioning.

(7) The provisions of subsections (1) to (6) of section 5 shall, *ipso facto*, apply to the Provincial AIDS Commissions. The Chief Minister of the Province shall be the Chairman of the respective Provincial AIDS Commissions.

6. Powers and Functions of AIDS Commissions. (1) Subject to the provisions of this Act, the Commission shall have the following powers and functions:

- (a) To formulate and implement a National HIV and AIDS Policy, which shall be reviewed, and amended if necessary, every three years after widespread consultation;
- (b) To develop and publish, in collaboration with the Provincial AIDS Commissions, a model HIV and AIDS Workplace Policy, which shall contain provisions consistent with this Act, and be reviewed every three years;
- (c) To formulate, institute and implement national, and provincial HIV and AIDS-related public awareness programs;
- (d) To promulgate rules providing protocols for counseling, testing, care, support, treatment tailored specifically and separately for all members of Most at Risk Populations, for children; and for women who are vulnerable and at risk for HIV infection;
- (e) To monitor compliance with this Act in the prescribed manner;
- (f) To receive reports of violations or other matters concerning this Act;
- (g) To recommend investigation or initiation of cases against health workers and other sections of the population as prescribed in this Act and the Rules;
- (h) To plan for and coordinate the dissemination of informational, educational and communication materials on the topics of HIV and of AIDS in a method as may be prescribed, and to plan continuing

education courses for health workers, and others including the general public, on topics related to this Act; and

- (i) To advise the Federal Government, and the Provincial Governments, on all kinds of matters relating to the prevention, control, care, support and treatment of HIV and AIDS, particularly through national or provincial education campaigns, and to itself organize such campaigns.

(2) In proceedings and inquiries before the Commission, it shall, have all the powers of a civil court under the Code of Civil Procedure, 1908 (V of 1908) in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of witnesses and examine them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office; and
- (e) issuing commissions for the examination of witnesses or documents.

(3) The Commission shall have power to require any person, to furnish information on such matters as, in its opinion, may be useful for, or relevant to, the subject matter of an inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Pakistan Penal Code, 1860 (XLV of 1860).

(4) The provisions of clauses (a) to (f) of subsection (1), and subsections (2) and (3) of section 6 shall, *ipso facto*, apply to the Provincial AIDS Commissions.

(5) If any question arises whether any matter relating to this Act, or the rules, fall within the jurisdiction of the Commission, or the Provincial AIDS Commission, or both, or more than one Provincial AIDS Commission, then such question shall be referred to the Federal

Government which shall, after consultation with the Commission and the concerned Provincial AIDS Commission, decide the same. The decision of the Federal Government in this regard shall be final.

7. Right of Redress. Nothing contained in this Chapter prohibits, limits or otherwise restricts the right of a person to other remedies provided under this Act or any other law for the time being in force to address violations of the provisions of this Act.

8. Investigation & Inspection. (1) The Commission, or the Provincial AIDS Commissions, as the case may be, shall be empowered to designate any category of persons as inspectors to conduct inspection, investigation and prosecution for purposes of this Act, and to monitor compliance with this Act. This category of persons may be federal inspectors, and/ or the provincial inspectors, appointed under the Drugs Act, 1976 (XXXI of 1976), or other inspectors appointed under the provisions of any other law.

(2) In so far as they are not inconsistent with the provisions of this Act or the rules, the powers and functions of, and the procedure to be followed by, the inspectors as prescribed in the Drugs Act, 1976 (XXXI of 1976), shall apply, *mutatis mutandis*, to inspectors mentioned in subsection (1) of section 8, for purposes of this Act, unless the same is inconsistent with any provision of this Act, or the rules.

9. Investigation & Filing of the Case. (1) Upon completion of the investigation and receipt of complete report, and after giving the offender an opportunity of being heard, the Commission, or the Provincial AIDS Commissions, as the case may be, shall decide as to whether institute or not to institute prosecution against the offender.

(2) If the Commission, or the Provincial AIDS Commissions, as the case may be, decide to institute the proceedings, then it shall direct the inspectors mentioned in subsection (1) of section 8 to institute prosecution against the offender for contravention of any provision of this Act, or the rules, in the Court of Session constituted under the provisions of the Code of Criminal Procedure 1898 (V of 1898).

(3) The Court shall follow the procedure prescribed in the Code of Criminal Procedure 1898 (V of 1898) for trying an offense under this Act. The offenses punishable under this Act shall be non-cognizable.

(4) A person sentenced by a Session Judge under this Act may prefer an appeal to the High Court, having jurisdiction over the concerned Court of Session, within thirty days of the judgment.

(5) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall be applicable to an appeal referred to in subsection (4) of section 9.

10. Public Enforcement. Any person whomsoever may make an application in writing to the Commission, or the Provincial AIDS Commissions, concerning contravention of any provision of this Act, or the rules. In the event the investigation reveals an offense, the Commission, or the Provincial AIDS Commissions, as the case may be, shall follow the procedure outlined for instituting prosecution against the offender in this Act, and as prescribed.

CHAPTER III

PROTECTION AGAINST DISCRIMINATION

11. Prohibition of Discrimination Based on HIV Status. No person shall be discriminated against on the basis of his HIV status in any form in relation to any activity in the private or public sectors.

12. Prohibition of Discrimination in Private and Public Sectors of Employment. (1) Except in accordance with this Act, it is unlawful to require, or to coerce, a person to be HIV screened for purposes of:

- (a) Employment, promotion, training, or benefit, either in public or private sectors;
- (b) Membership in any organization;
- (c) Admission to any educational institution;
- (d) Admission to any public or private place of accommodation;
- (e) Marriage;
- (f) Immigration to, emigration from, or citizenship of, Pakistan; or
- (g) Visiting another country for any purpose whatsoever, including but not limited to, tourism, studies or work.

(2) All organizations in any public or private sector shall keep confidential the medical and personal information relating to the HIV/ AIDS status of their employees, students and members, as the case may be.

(3) Every employer shall endeavor his best to provide reasonable alternative working arrangements and the maximum possible benefits to an employee who is HIV positive and is no longer able to work.

(4) All HIV-positive employees shall receive education on HIV/ AIDS, as well as relevant counseling and appropriate referral for treatment and social services by his employer.

(5) Every workplace, public or private, having more than 50 employees, shall adopt and enforce an HIV/ AIDS Workplace Policy, which shall conform to the model HIV and AIDS Workplace Policy prepared by the Commission.

13. Prohibition of Discrimination in Private and Public Health Facilities. (1) No person shall be required to be HIV screened for routine testing or diagnostic testing purposes by any public or private health care facility.

(2) All public and private health facilities shall maintain confidentiality of patients' medical and personal information, including their HIV/ AIDS status.

(3) No public or private health care facility shall ever deny or discontinue medical treatment of any person, based on his or any of his family member's actual or perceived HIV positive status.

14. Prohibition of Discrimination in Private and Public Education. (1) No person, including a minor, seeking admission in a private or public educational institution shall be HIV screened, and shall ever be denied admission based solely on his HIV status.

(2) All educational institutions, whether public or private, shall maintain confidentiality of all medical and personal information relating to the HIV/ AIDS status of all its students and employees.

(3) The Federal and the Provincial Governments shall ensure that children affected by HIV/AIDS continue to access educational facilities; and shall formulate and implement programs to address issues relating to barriers to education, including school fees and other costs, faced by such children.

15. Prohibition of Discrimination in Private and Public Accommodations. No person seeking private or public accommodation any where shall be screened for purposes of denying admission based on his HIV status

16. Prohibition of Discrimination in Regard to Goods and Services. No person shall be denied access, or provision or enjoyment of, services, goods, or benefits, in or by any public or private facility, based solely on his perceived or actual HIV status.

17. Prohibition of Vilification Based On HIV Status. No person shall publish, propagate, advocate or communicate by words, either spoken or written, or by signs or by visible representations or otherwise, against any person on grounds of his HIV/ AIDS status.

CHAPTER IV

BEHAVIOR CHANGE COMMUNICATION AND ADVOCACY OF HIV AND AIDS PREVENTION MEASURES

18. Need for Behavior Change Communication and Advocacy. (1) All persons have the right to information about HIV and AIDS.

(2) All HIV and AIDS-related public awareness programs shall be disseminated widely through all forms of media, including print, electronic, mass and digital media.

(3) All HIV and AIDS-related public awareness programs, as well as behavior change communication and advocacy, shall form part of the delivery of health services by health workers and health care facilities, particularly to the members of Most at Risk Population.

(4) It shall be the duty of every health worker, and health care facility, to make available to the public, subject to the provisions of this Act, such information as is necessary in the prevention, control, as well as treatment of HIV and AIDS.

(5) Every health care facility shall enhance the knowledge and capacity of all its health workers in relation to dissemination and education of the general public about HIV and AIDS; and on other HIV-related issues such as discrimination, confidentiality, and informed consent.

19. Support for Education & Awareness Raising Programs. Programs shall be established by the Federal Government, and the Provincial Governments, with the active cooperation of the Commission and the Provincial AIDS Commissions, to educate and raise awareness among:

- (a) Persons living with HIV and AIDS;
- (b) Women vulnerable and at risk for HIV;
- (c) Members of Most at Risk Populations concerning their rights and generally to empower them;
- (d) Among judges, judicial staff and among legal practitioners concerning the rights of protected and Most at Risk Populations, and for the

purpose of encouraging the provision of legal services to enforce those rights, and to develop expertise on HIV-related legal issues among such persons.

CHAPTER V

REDUCTION OF RISK OF HIV EXPOSURE AMONG MEMBERS OF MOST AT RISK POPULATIONS

20. HIV and AIDS Prevention Services Amongst Most at Risk Populations. (1) The Commission and the Provincial AIDS Commissions shall advise the Federal Government and the Provincial Governments respectively about the possible actions that may be taken to promote individual safe behaviors, and other actions to reduce risk of exposure to HIV among members of vulnerable groups, and from them to the general population.

(2) Notwithstanding anything contained in any other law in force, providing of any product even if prohibited by law or any equipment, to implement, enforce, plan, deliver, or monitor any kind of HIV and AIDS prevention harm reduction services, shall not, in any manner, be prohibited, impeded, restricted or prevented, and shall not amount to a criminal offence, by persons working in good faith, and not to make any kind of profit whatsoever.

(3) No law enforcement or other public official shall arrest or detain, or in any manner harass, impede, restrict or otherwise prevent any person implementing or using strategies, and drug substitution therapies, in good faith, and without any motive for profit, for HIV and AIDS prevention harm reduction services in accordance with the provisions of this Act, including publishing and dissemination of materials, sterile drug equipment paraphernalia, bleach and other disinfectants, and condoms, amongst the Most at Risk Population members.

(4) The Federal Government, and the Provincial Governments, in consultation with the Commission and the Provincial AIDS Commissions, shall organize and arrange training in the field of behavior change and communication (BCC) and on HIV and AIDS prevention harm reduction services, for police and prison Commissions, and other law enforcement officials.

21. Women Vulnerable and at Risk for HIV Infection. (1) The Federal Government may in any part of Pakistan and the Provincial Governments within the limits of a Province, in consultation with the Commission and the Provincial AIDS Commissions respectively, shall ensure introduction and implementation of strategies promoting comprehensive prevention,

care and treatment of diseases affecting women and children, as well as policies to provide them access to a full range of high quality and affordable healthcare, including sexual and reproductive healthcare services.

(2) Women who have been raped or otherwise experience sexual violence, shall be provided with counseling and clinical services at public and private health care facilities. Services for rape survivors shall include post-exposure prophylaxis. Every survivor of sexual assault, whether or not they have reported the sexual assault to police, shall have access at a public health care facility to the following services on a confidential basis:

- (a) Counseling;
- (b) Prevention and management of STIs, including access to testing and prophylactic treatment;
- (c) Prevention, treatment and management of other medical conditions or injuries associated with the sexual assault;
- (d) HIV/ AIDS related counseling and treatment, if required;
- (e) Follow up treatment and care; and
- (f) Referrals.

(3) No person in charge of a health care facility providing services to a survivor of sexual assault under the provisions of this Act shall report or release information regarding the assault or the survivor to any person whomsoever without the written informed consent of the survivor of sexual assault.

(4) Rules shall be made specifying protocols for the counseling and treatment of survivors of rape or sexual assault and for the training of health workers in the implementation of such protocols.

22. Children and HIV-Positive Pregnant Women. (1) An HIV-positive pregnant woman shall have the right to receive such counseling and information from a health care facility, whether public or private, which enables her to make a decision about her pregnancy,

undertaking HIV-related treatment, and in relation to other matters affecting her health and pregnancy.

(2) No pregnant woman shall be subject to forced sterilization or abortion without her written informed consent.

(3) The Federal Government and the Provincial Governments, in consultation with the Commission and the Provincial AIDS Commissions, shall provide to children VCT (Voluntary Counseling & Testing), and referral treatment, on a confidential basis; and the identity of the child, tested for HIV, or the results of the HIV test, or of the counseling provided to such child, cannot be revealed, except in accordance with law.

(4) The Federal and the Provincial Governments shall adopt effective and appropriate measures to abolish harmful practices affecting the health of children, particularly girls, including marriages below the age of 18 years, preferential feeding and care of male children at the expense of girls.

23. Prisoners. (1) No person in the care or custody of the State in any kind of prison may be HIV screened without his informed consent.

(2) Every person who is in the care or custody of the State in any kind of prison facility shall have the right to HIV prevention, counseling, testing and treatment services.

(3) The Provincial AIDS Commissions shall introduce strategies for HIV and AIDS Prevention Harm Reduction Services-

(4) A person in the care or custody of the State in any kind of prison, who has been exposed to the risk of HIV transmission, shall be referred immediately to a State health care facility, for HIV-related counseling, treatment or other services and shall be entitled to, if recommended, post exposure prophylaxis and HIV-related treatment from the State.

(5) Every person in the care or custody of the State in any prison shall be entitled to receive his complete medical records upon his release or discharge.

CHAPTER VI

REDUCTION OF RISK FOR OCCUPATIONAL HIV EXPOSURE

24. Provision of Universal Precautions and Post Exposure Prophylaxis. (1) Every health care facility, where there is a significant risk of occupational exposure to HIV, shall provide free of cost universal precautions, and post exposure prophylaxis, to all persons working in such health care facility who may be occupationally exposed to HIV and appropriate training for the use of such universal precautions.

(2) Every health care facility shall ensure that the universal precautions and the post exposure prophylaxis protocols introduced at its facility are complied with by all concerned. It shall in this regard inform all persons working in the health care facility about the details of availability of these precautions and protocols and shall make special efforts to ensure that all workers in health care facilities are trained in using and accessing them.

25. Provision of HIV related Treatment & Compensation. Every health care facility shall provide HIV-related treatment to persons working in such institution who are occupationally exposed to and acquire HIV.

CHAPTER VII

PROMOTING SAFE BLOOD SUPPLIES

26. Screening for HIV Positive Blood and Blood Products. (1) All blood and blood products, including organs and tissues for donation, shall be screened for HIV, and shall be disposed unless used for research purposes, in accordance with the provisions of the Islamabad Transfusion of Safe Blood Ordinance, 2002 (Ordinance LXXIII of 2002) in the Islamabad Capital Territory and in areas administered by the Federal Government, and in accordance with the provisions of the Balochistan Safe Blood Transfusion Act 2004 (Act III of 2004); the NWFP Transfusion of Safe Blood Act, 1999 (Act IX of 1999); the Punjab Transfusion of Safe Blood Ordinance 1999 (Ordinance XXXVI of 1999); and the Sindh Transfusion of Safe Blood Act 1997 (Act I of 1997) and the rules promulgated therein, in relation to the respective Province.

CHAPTER VIII

VOLUNTARY COUNSELING, TESTING, CARE, SUPPORT AND TREATMENT

27. Provision of Counseling, & Testing Regarding Determination of HIV Status. (1) The Federal Government may in any part of Pakistan, and the Provincial Governments may within the limits of their respective Province, in consultation with the Commission and the Provincial AIDS Commissions, establish VCT (voluntary counseling and testing) centers. These centers shall conform to the following elements:

- (a) Testing shall be voluntary;
- (b) Pre-test counseling shall be provided;
- (c) Results shall be confidential and shall be provided only to the person tested;
- (d) Post test counseling shall be provided, tailored to meet the specific needs of the person tested;
- (e) HIV positive persons shall be referred to the relevant health care facility, and shall receive ongoing prevention, care, support and treatment services.

28. Voluntary Informed Consent Requirement for HIV Counseling & Testing. (1) Voluntary written informed consent shall be obtained on a prescribed form before any HIV screening or pre-test counseling is undertaken.

(2) The informed consent in writing may be given by using a coded system.

(3) No persons, including children, should be screened for HIV when they are lodged in a governmental establishment, including but not limited to, a crisis center, an orphanage, darul aman, or similar other centers and facilities.

(4) The age of consent for HIV testing will be eighteen years. Children under this age will need the consent of their parents or guardians. In special cases, children living independently, who are not in contact with parents and who do not have a guardian, will be able to consent for HIV testing after they have been provided with age-sensitive information and counseling.

29. Exceptions to Informed Consent. Informed consent for an HIV-related test shall not be required in the following instances:

- (a) Court ordered HIV-related test when person being tested receives pre-test and post-test counseling, and when HIV-related information of that person is kept confidential and not disclosed; and
- (b) Surveillance or epidemiological purposes where the HIV test is anonymous and unlinked and is not for the purpose of determining the HIV status of a person.

CHAPTER IX

SCALING UP FOR TREATMENT OF HIV INFECTION

30. Federal and Provincial Governments Scale Up Preparations. (1) The Federal Government, and the Provincial Government, in consultation with the Commission and the Provincial AIDS Commissions, shall establish and strengthen national health and social infrastructures and health care systems in order to increase capacity to deliver HIV and AIDS prevention, control, care, support and treatment services.

(2) In consultation with HIV-positive persons and other members of Most at Risk Population, the Federal and the Provincial Governments shall maximize opportunities for the delivery of all relevant interventions for prevention, care, support and treatment of HIV and AIDS, including programs to strengthen training and capacity building of health workers and other public health Commissions.

(3) The Federal and the Provincial Governments shall take all measures to improve and ensure affordability, availability, and access, including improving management of the supply chain and procurement, of testing, treatment, care, support and counseling services, and products, and pharmaceutical and diagnostic products used to diagnose, treat and manage HIV and AIDS.

(4) The Federal Government, in consultation with the Commission, shall introduce income, sales and other tax incentives and exemptions, on HIV-related treatment and drug harm reduction programs, and goods, in order to promote its affordability, accessibility and availability to the general public.

(5) The Federal Government, in consultation with the Commission, shall ensure that the pricing of medication, diagnostics and other related technologies, is fixed in a manner which is transparent, and which makes it affordable, accessible and easily available.

(6) The Federal and the Provincial Governments shall ensure that incentives to encourage investment in research and development are provided to entities to develop, manufacture, market and distribute affordable and accessible preventive, curative and palliative care and treatment of HIV and AIDS.

31. Provision of Care, Support, & Treatment to People Living with AIDS. (1) The Federal Government may in any part of Pakistan and the Provincial Governments shall within the limits of their respective Province, acting in collaboration with the Commission and the Provincial AIDS Commissions, shall provide, as appropriate, care, support and treatment for persons living with AIDS.

(2) In this regard, at least one hospital in the Islamabad Capital Territory, and at least one each in the provincial capital cities, shall be designed, equipped, supplied, and staffed to provide appropriate, and comprehensive services as an integrated care delivery facility for the care of persons living with HIV/ AIDS.

(3) A referral system shall be established for the care and support of persons living with HIV/ AIDS, through strengthening of services available at the governmental and non-governmental levels concerning medical diagnosis of HIV and of AIDS, the medical management, and planning for and delivery of voluntary counseling for the community, and provision of skills building training to the health workers.

(4) Goods, services and information shall be provided at designated hospitals for the curative and palliative care of HIV and AIDS and related opportunistic infections and conditions, for counseling, and for the effective and monitored use of medicines for opportunistic infections, and post exposure prophylaxis, including the following:

- (a) ART (Anti-retroviral therapy);
- (b) Nutritional supplements;
- (c) Measures for the prevention of mother-to-child transmission; and

- (d) Other safe and effective medicines, diagnostics and related technologies.

(5) Nothing shall be construed in this section, this Act or the Rules, to prevent any health care facility, whether governmental or non-governmental, from providing any kind of services in relation to care, support and treatment for persons living with AIDS any where in Pakistan.

32. Consumer & Legal Protection. (1) The Federal Government, and the Provincial Governments, with the cooperation of the Commission and the Provincial AIDS Commissions, shall provide:

- (a) Consumer protection against fraudulent claims for the sale, distribution, and marketing of pharmaceuticals, vaccines and medicines; and
- (b) Training and capacity building of law professionals for the provision of legal services for women and children vulnerable and at risk for HIV infection and for members of other Most at Risk Populations.

CHAPTER X

REQUIREMENT OF CONFIDENTIALITY

33. Confidentiality of Information. (1) Except as otherwise provided in this Act, all health workers, and any other person while providing services, or being associated in the course of his duties with the provision of any HIV counseling, testing, care, support or treatment services or care; or through administration of this Act or by conducting surveillance reporting, or research, shall take all reasonable steps to maintain confidentiality. Such person shall prevent disclosure of any information that another person:

- (a) is or is presumed to be HIV positive;
- (b) has or is presumed to have AIDS; or
- (c) has been or is being tested for HIV infection.

34. Authorized Disclosure of Information. (1) No person shall be compelled to disclose HIV-related information or any other private information concerning himself, except when a court determines by an order that the disclosure of such information is necessary for the determination of issues and in the interest of justice in a matter before it.

(2) Disclosure of HIV-related information or private information is authorized in case the disclosure is made:

- (a) By a health worker to another health worker who is involved in the provision of care, treatment or counseling of a person, when such disclosure is necessary to provide care or treatment in the best interest of that person; or
- (b) By an order of a court when it determines by such order that the disclosure of such information is necessary for the determination of issues and in the interest of justice in a matter before it; or

- (c) In legal proceedings between persons, where the disclosure of such information is necessary in the initiation of such proceedings or for instructing counsel; or
- (d) If it relates to statistical or other information of a person that could not reasonably be expected to lead to the identification of that person.

(3) Any person to whom disclosure is made under this section is prohibited from making further disclosure except as provided in this Act.

35. Partner Notification to Prevent HIV Transmission. A health worker who is a physician or a counselor, may inform the spouse or a partner of a person under his direct care of such person's HIV-positive status only when:

- (a) The HIV-positive person has been thoroughly counseled to inform such spouse and/ or partner;
- (b) Counseling of the HIV-positive person has failed to achieve the appropriate behavioral changes and he is unlikely to inform his spouse and/ or partner;
- (c) The health worker reasonably believes that the spouse and/ or the partner is at significant risk of transmission of HIV from such person;
- (d) The health worker has given the HIV-positive person a reasonable advance notice of his intention to disclose the HIV-positive status to such spouse and/ or partner; and
- (e) If unavoidable, such disclosure to the spouse/ and or partner is made in person and with appropriate counseling or referrals for counseling.

36. HIV & AIDS Prevention Harm Reduction Settings. Any information obtained or maintained in records by a person implementing a HIV and AIDS prevention harm reduction service shall be considered to be confidential for the purpose of this Act.

CHAPTER XI

PROVISION OF LEGAL SERVICES

37. Enforcement of Legal Rights. The Federal Government, and the Provincial Governments, in consultation with the Commission and the Provincial AIDS Commissions, shall provide free legal services to members of Most at Risk Populations to enforce their legal rights, and to help develop their expertise on HIV-related legal issues.

38. Support for Provision of Legal-Aid. The Federal Government, and the Provincial Governments shall support legal practitioners to provide free legal services to persons living with HIV/AIDS and for women vulnerable and at risk for HIV and members of Most at Risk Populations in all areas covered by this Act.

CHAPTER XII

PENALTIES

39. Penalties for Discrimination. Any person who contravenes sections 11, 12, 13, 14, 15, 16 and 17, or subsection (5) of section 20, or subsection (4) of section 21, shall be punishable with fine which shall not be less than Rupees fifty thousand or more than Rupees three hundred thousand.

40. Power of Court to Pass Appropriate Orders. (1) Notwithstanding any other law for the time being in force, in the adjudication of any proceedings, which are instituted under this Act, a court may pass appropriate orders in the circumstances of the case to:

- (a) prevent breaches of the provisions of this Act; or
- (b) redress breaches of the provisions of this Act by directing:
 - (i) specific steps, special measures or affirmative actions or both to be taken;
 - (ii) the withdrawal of or ceasing and desisting from committing breaches of this Act;
 - (iii) the employer of a person who has committed a breach of this Act to Initiate disciplinary action against such person;
 - (iv) the employer of the person who has committed a breach of this Act to put the matter in the employee's Annual Confidentiality Report;
 - (v) the inclusion of the matter in the Annual or other report of the person who has committed a breach of this Act that is available to the public and that is filed with regulatory Commissions, where such person is a registered company, institution, society or other body;
 - (vi) an appropriate order of a deterrent nature, including a recommendation to the appropriate Commissions, to suspend or revoke the licence of the person who has committed a breach of this Act; and/ or

- (vii) any person who has committed a breach of this Act to file regular progress reports with the court regarding the implementation of the court's order.

(2) In a proceeding relating to discrimination in employment under this Act, the court shall have the power to pass any or all of the following orders:

- (a) that the person discriminated against be employed;
- (b) that the person discriminated against be reinstated;
- (c) that the person who has discriminated make arrangements for the reasonable accommodation of the person discriminated against; and/ or
- (d) the payment of wages, allowances, benefits, perquisites and privileges that may have been lost on account of non-employment or termination.

41. Penalty for Contravention of HIV Positive Blood Related Provisions. Failure to screen for HIV blood and blood products in accordance with the provisions of the Islamabad Transfusion of Safe Blood Ordinance, 2002 (Ordinance LXXIII of 2002) in the Islamabad Capital Territory and in areas administered by the Federal Government, and in accordance with the provisions of the Balochistan Safe Blood Transfusion Act 2004 (Act III of 2004); the NWFP Transfusion of Safe Blood Act, 1999 (Act IX of 1999); the Punjab Transfusion of Safe Blood Ordinance 1999 (Ordinance XXXVI of 1999); and the Sindh Transfusion of Safe Blood Act 1997 (Act I of 1997) and the rules promulgated therein, in relation to the respective Province, shall be punishable under the relevant and applicable law.

42. Penalty for Violation by Health Workers. If a health workers fails to comply with any relevant provision of this Act or the Rules promulgated herein or contravenes any order, or direction, given by the Commission or the Provincial AIDS Commissions, then the Commission or the Provincial AIDS Commission, as the case may be, shall have the power to recommend in writing to the Pakistan Medical and Dental Council existing under the Medical and Dental Council Ordinance, 1962 (XXXII of 1962), to suspend, or cancel, his license for

the practice of his profession or occupation, or for the pursuit of his business, or take other appropriate action as the Council considers appropriate under the circumstances of the case.

43. Penalty for Violation by a Public Health Care Facility. If a public health care facility fails to comply with any relevant provision of this Act or the Rules promulgated herein or contravenes any order, or direction, given by the Commission or the Provincial AIDS Commissions, then the Commission or the Provincial AIDS Commission, as the case may be, shall have the power to recommend in writing to the Federal Government or the relevant Provincial Government, as the case may be, to take appropriate action against the relevant official and/ or employee in accordance with the relevant laws, rules and regulations.

44. Penalty for Violation by a Private Health Care Facility. If a private health care facility fails to comply with any relevant provision of this Act, including but not limited to subsection (5) of section 20 and subsection (4) of section 21, or sections 22, 24, 25, 33 or 34, or the Rules promulgated herein, or contravenes any order, or direction, given by the Commission or the Provincial AIDS Commissions, then it, and every officer and director of such private health care facility who knowingly and wilfully is a party to the default, shall be punishable with fine of not less than Rupees fifty thousand or more than Rupees one million.

45. Penalty for Abortion without Written Consent. Any person who contravenes subsection (2) of section 22 shall be punishable with imprisonment extending up to one year, or fine which shall not be less than Rupees fifty thousand or more than Rupees three hundred thousand.

46. Penalty for Violation by a Prison or Police Official. If a prison or a police official fails to comply with any relevant provision of this Act, including but not limited to, subsections (2) and (3) of section 20 and section 23, or the Rules promulgated herein or contravenes any order, or direction, given by the Commission or the Provincial AIDS Commissions, then the Commission or the Provincial AIDS Commission, as the case may be, shall have the power to recommend in writing to the Federal Government or the relevant Provincial Government, as

the case may be, to take appropriate action against the relevant official in accordance with the relevant laws, rules and regulations.

47. Disobedience of Orders. Whoever contravenes any provisions of this Act or the Rules, or of any order made thereunder, for the contravention of which no penalty is hereinbefore provided, shall be punishable with fine which may extend to Rupees ten thousand, and in the case of a continuing contravention, with a further fine which may extend to Rupees five hundred for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

48. Responsibility of an individual for the act of a Company, or an Institution. Where the person guilty of an offense under this Act is a company, corporation, firm or institution, every director, partner and employee of the company, firm or institution, unless he proves that the offense was committed without his knowledge or consent, shall be guilty of the offense.

49. Non-cognizable Offenses. The offenses punishable under this Act shall be non-cognizable.

CHAPTER XIII
MISCELLANEOUS

50. Redress for Grievances of Prohibited Discrimination. No person shall be restricted in any way from bring any proceeding under this Act against any person.

51. Additional Measures. Nothing in this Act shall prevent the State or any other person from taking other measures for the protection, benefit or advancement of women vulnerable and at risk for HIV infection or members of Most at Risk Populations, including the greater involvement of HIV-positive persons.

52. Speedy & Effective Legal Procedures. Independent, speedy and effective legal and/ or administrative procedures, shall be prescribed and provided for by the relevant courts, for seeking redress under the provisions of this Act, containing such features as fast-tracking for cases where the complainant is terminally ill, investigatory powers to address systemic cases of discrimination in policies and procedures, ability to bring cases under pseudonym and representative complaints, including the possibility of public interest organizations bringing cases on behalf of people living with HIV/AIDS.

53. Posting of Abstracts. The text, as prescribed, of this Act and the Rules, shall be prominently posted and kept in a legible condition by the employer in English and Urdu, and in the language understood by the majority of the local population, on special boards to be maintained for the purpose at or near the entrance through which the majority of the employees, patients, prisoners and the public, as the case may be, enter all health care facilities and prisons.

54. Removal of difficulties. If any difficulty arises in giving effect to any of the provisions of this Act, the AIDS Commission may make such order, not inconsistent with the provision of this Act, as may appear to the Commission to be necessary for the purpose of removing the difficulty.

55. Power of Federal Government to Make Rules. The Federal Government may, in consultation with the Provincial Governments and the Commission and the Provincial AIDS Commissions, by notification in the official Gazette, make rules for carrying out the purposes of this Act.